

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE: **Ricardo Frescas**
Mynette Sanchez
Debtor(s)

Case No.

Chapter 13 Proceeding

☐ **AMENDED** ☐ **MODIFIED**
DEBTOR(S)' CHAPTER 13 PLAN
AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE

Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at www.txwb.uscourts.gov.

Use of the singular word "Debtor" in this Plan includes the plural where appropriate.

Plan Summary

- A. The Debtor's Plan Payment will be \$2,128.00 Monthly, paid by ☐ Pay Order or ☒ Direct Pay for 60 months. The gross amount to be paid into the plan is \$127,680.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 7% of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is \$2.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

Plan Provisions

I. Vesting of Estate Property

- ☐ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☒ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

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Continuation Sheet # 1

II. Pre-Confirmation Disbursements

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
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III. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor / Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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Continuation Sheet # 2

"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on _____."

Debtor

Joint Debtor

V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI(2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien--e.g., judicial lien, nonpurchase-money security interest, etc.)

Creditor / Property subject to lien	Amount of Lien to be Avoided	Remarks
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VI. Specific Treatment for Payment of Allowed Claims

1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS, INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS

A. Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, **MUST** be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

Creditor / Collateral, if any (including the name of each DSO creditor)	Remarks	Debt Amount	Payment Amount/Interval
El Paso Tax Assessor-Collector 5633 Beth View Dr.	through 2017	\$2,945.48	
Gvt Emp Cu Loan	direct pay by debtor's father	\$500.00	
Pennymac Loan Services 5633 Beth View Dr.	Direct pay by debtor	\$106,181.23	\$998.00

B. Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

Creditor/Collateral	Collateral to Be Surrendered
GECU	2011 Dodge Durango

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Continuation Sheet # 3

2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS

A. Administrative Expenses

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums received. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
Watson Law Firm, P.C.	\$3,600.00	Along With	

B. Priority Claims, Including Domestic Support Obligation Arrearage Claims

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks

C. Arrearage Claims

Creditor / Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
Pennymac Loan Services 5633 Beth View Dr.	\$16,000.00	\$10,406.29	Pro-Rata	4.5%	\$17,845.67	

D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks

E. Secured Creditors

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completing of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks (specifically note if claim amount to be paid although greater than value of collateral)
Bank of the Ozarks 2011 Freightliner	\$52,132.89	\$45,000.00	Pro-Rata	6.25%	\$60,728.34	Pay claim amount
Gvt Emp Cu 2014 Ford F150	\$26,515.90	\$27,076.00	Pro-Rata	6.25%	\$30,887.70	

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Continuation Sheet # 4

Gvt Emp Cu 2014 Ford F150	\$0.00	\$560.10	Pro-Rata	6.25%	\$0.00	Xcoll
Gvt Emp Cu 2014 Ford F150	\$0.00	\$560.10	Pro-Rata	5.25%	\$0.00	Xcoll

F. General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed).
Describe treatment for the class of general unsecured creditors.

General Unsecured Creditors will receive approximately 7% of their allowed claims.

Creditor	Estimated Debt	Remarks
Aspire Cardholder Services	\$0.00	
Bank Of America	\$5,390.00	
Bank Of America	\$0.00	
Capital One	\$0.00	
Citibank / Sears	\$0.00	
Colquitt Company	\$1,806.62	
Comenity Bank/dress barn	\$1,127.56	
Credit First National Assoc	\$0.00	
Creditors Adjustment Bureau	\$0.00	
Edfinancial/nthea	\$0.00	
edfinancial\nthea	\$0.00	
EFG Finance Group	\$0.00	
Firstlight Federal Cu	\$0.00	
Ford Motor Credit	\$0.00	
Fortiva/Atlanticus	\$252.31	
GECU	\$3,813.69	
GECU	\$5,129.10	
Higher Educ Svc Corp	\$0.00	
Higher Educ Svc Corp	\$0.00	
higher education svc Corp	\$0.00	
Kia Motors Finance Co	\$0.00	
Massey's	\$441.91	
Paypal Credit	\$0.00	
Preferred Credit Inc	\$0.00	
Real Time Resolutions	\$0.00	
Snblt Ctl Bk	\$2,080.68	
Southwest Credit Systems	\$166.00	
Stoneberry	\$174.17	
Syncb	\$0.00	
Synchrony bank /car care one	\$0.00	
Synchrony bank /QVC		
Us Dept Of Ed/Great Lakes Higher Educati	\$3,150.00	
WebBank/Gettington	\$1,195.00	

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Continuation Sheet # 5

Wffnb Dual L

\$1,445.00

Totals:

Administrative Claims	<u>\$3,600.00</u>
Priority Claims	<u>\$0.00</u>
Arrearage Claims	<u>\$16,000.00</u>
Cure Claims	<u>\$0.00</u>
Secured Claims	<u>\$78,648.79</u>
Unsecured Claims	<u>\$26,172.04</u>

VII. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

Agreed Orders

Agreed Orders shall control in any conflict between Plan provisions and the provisions in the Agreed Orders.

Disposable Earnings

Pursuant to 11 U.S.C. § 1322(a)(1) of the Bankruptcy Code, the Debtor(s) shall submit all or such portion of future earnings or other future income of the debtor to the supervision and control of the trustee as is necessary for the execution of the plan. The Debtor(s) agree to report to the Trustee any changes in income that would necessitate modifying their plan by either increasing or decreasing their plan payment or increasing or decreasing payout to unsecured creditors

Authorization to send monthly bills

Confirmation of the Plan shall constitute authority for creditors, such as lien-holders on real property and lien-holders on vehicles, who receive monies as direct payments from Debtor(s) as a result of Debtor(s) election to pay such monies outside of the plan to send monthly statements as a convenience to the Debtor(s) and such statements shall not be considered a violation of the provisions of the automatic stay.

Certain Pre-Confirmation Disbursements

If a creditor is listed as secured and scheduled to receive pre-confirmation disbursements and post-confirmation payments along with the other secured creditors, but such creditor subsequently files an unsecured claim, then the creditor will not receive any pre-confirmation disbursements and upon confirmation will be paid along with the other unsecured creditors. The funds that were allocated to such creditor as a pre-confirmation disbursement will be distributed on a pro-rata basis to the other secured creditors. Similarly, the funds scheduled to be received by such creditor along with other secured creditors on a pro-rata basis.

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Continuation Sheet # 6

Misfiled and Unfiled Creditors Paid Accordingly

If any secured proof of claim is timely filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as secured unless, it is objected to. Said claims shall be paid under the plan at 5.5% interest. Likewise, if any priority proof of claim is timely filed for a debt that was either not listed or listed as unsecured, the claim shall be allowed as priority unless it is objected to. Said priority claim shall not be paid with any interest.

Respectfully submitted this date: 9/19/2017.

/s/ Karla P. Griffin

Karla P. Griffin
1123 E. Rio Grande
El Paso, Texas 79902
Phone: (915) 562-4357 / Fax: (866) 201-0967
(Attorney for Debtor)

/s/ Ricardo Frescas

Ricardo Frescas
5633 Beth View Dr.
El Paso, TX 79932
(Debtor)

/s/ Mynette Sanchez

Mynette Sanchez
5633 Beth View Dr.
El Paso, TX 79932
(Joint Debtor)

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Mynette Sanchez
Joint Debtor

CHAPTER **13**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on September 19, 2017, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

/s/ Karla P. Griffin

Karla P. Griffin
Bar ID:24074659
Watson Law Firm, P.C.
1123 E. Rio Grande
El Paso, Texas 79902
(915) 562-4357

Aspire Cardholder Services
xxxxxxxxxxxx8482
PO Box 105555
Atlanta, GA 30348

Capital One
6058
P.O. Box 30285
Salt Lake City, UT 84130

Credit First National Assoc
xxxxx7243
Attn: BK Credit Operations
PO Box 81315
Cleveland, OH 44181

Bank Of America
2577
NC4-105-03-14
PO Box 26012
Greensboro, NC 27410

Citibank / Sears
5555
citicorp credit services\Atn centraliz
P.O. Box 30285
Saint Louis, MO 63179

Creditors Adjustment Bureau
14226 Ventira
Sherman, CA 91423

Bank Of America
7528
NC4-105-03-14
PO Box 26012
Greensboro, NC 27410

Colquitt Company
xxxxxxx7017
301 Paseo Real Drive
Chaparral, NM 88081-7920

Edfinancial/nthea
xxxxxxxxxxxx0002
120 N Seven Oaks Drive
Knoxville, TN 37922

Bank of the Ozarks
P.O, Box 242208
Little Rock, AR 72223

Comenity Bank/dress barn
2230
PO Box 182789
Columbus, OH 43218

edfinancial\nthea
0002
123 Centerpark Dr.
Knoxville, TN 37922

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CHAPTER **13**

CERTIFICATE OF SERVICE

(Continuation Sheet #1)

EFG Finance Group
122 W Carpenter Freeway
Irving, TX 75039

Gvt Emp Cu
1225 Airways Blvd
El Paso, TX 79928

Paypal Credit
P.O. Box 105658
Atlanta, GA 30348

El Paso Tax Assessor-Collector
221 North Kansas Suite 300
El Paso, Texas 79901

Higher Educ Svc Corp
xxxxxxxxxxxx0101
4381 W Green Oaks Blvd S
Arlington, TX 76016

Pennymac Loan Services
xxxxxxxx7267
Attn: Bankruptcy
PO Box 514357
Los Angeles, CA 90051

Firstlight Federal Cu
xxxxxxxxxxxx0621
Pob 24901
El Paso, TX 79914

Higher Educ Svc Corp
xxxxxxxxxxxx0102
4381 W Green Oaks Blvd S
Arlington, TX 76016

Pennymac Loan Services
Attn: Bankruptcy
PO Box 514357
Los Angeles, CA 90051

Ford Motor Credit
xxxx9396
National Bankruptcy Service Center
PO Box 62180
Colorado Springs, CO 80962

higher education svc Corp
0101
4381 W. Green Oaks Blvd S
Arlington, TX 76016

Preferred Credit Inc
xxx7980
PO Box 1970
St Cloud, MN 56301

Fortiva/Atlanticus
xxxxxxxxxxxx3379
PO Box 10555
Atlanta, GA 30348

Kia Motors Finance Co
xxxxxxxx4138
PO Box 20825
Fountain Valley, CA 92728

Real Time Resolutions
xxxxx1225
Attn: Bankruptcy
PO Box 36655
Dallas, TX 75235

GECU
PO Box 20998
El Paso, TX 79998-0998

Linebarger Goggan Blair & Sampson,
LLP
711 Navarro, Suite 300
San Antonio, TX 78205

Ricardo Frescas
5633 Beth View Dr.
El Paso, TX 79932

Gvt Emp Cu
xxxxxxxx8774
1225 Airways Blvd
El Paso, TX 79928

Massey's
c/o creditors bankruptcy serv
PO Box 800849
Dallas, TX 75380

Snblt Ctl Bk
xxxxx1323
181 Security Place 29307
Spartanburg, SC 29304

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Debtor

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Joint Debtor

CHAPTER **13**

CERTIFICATE OF SERVICE

(Continuation Sheet #2)

Southwest Credit Systems
xxxx7847
4120 International Parkway Ste 1100
Carrollton, TX 75007

Us Dept Of Ed/Great Lakes Higher
Educati
xxxxxxxxxxxx8581
Attn: Bankruptcy
2401 International Lane
Madison, WI 53704

Stoneberry
P O Box 2820
Monroe, WI 53566

WebBank/Gettington
8097
6250 Ridgewood Roa
Saint Cloud, NM 56303

STUART C. COX
Standing Chapter 13 Trustee,
1760 North Lee Trevino Dr.
El Paso, TX 79936

Wffnb Dual L
xxxxxxxxxxxx9896
Po Box 94498
Las Vegas, NV 89193

Stuart C. Cox, Trustee
1760 North Lee Trevino
El Paso, TX 79936

Syncb
xxxxxxxxxxxx7867
PO Box 965060
Orlando, FL 32896

Synchrony bank /car care one
Attn: Bankruptcy
P.O. Box 10304
Roswell, GA 30076

Synchrony bank /QVC
Attn: Bankruptcy
P.O. Box 10304
Roswell, GA 30076